

REMARKS

Reconsideration and allowance of this application are respectfully requested.

Claims 55-72 are pending in this application.

On the summary page of this Action the Examiner indicated that this is a non-final action. However, on page 9 of the Action it states that the action is final. The Examiner confirmed in a telephone call with the undersigned in May, 2009 that this action is non final.

THE INFORMATION DISCLOSURE STATEMENTS

The Examiner has only considered the references on pages 9 to 17 of Applicant's Information Disclosure Statement (IDS) filed April 16, 2009. The Examiner is kindly requested to consider all of the references cited on that IDS. For the Examiner's convenience, a copy of pages 1 to 8 of the Forms 1449 of that IDS is included herewith.

In addition, Applicant submits herewith another IDS.

THE PRIOR ART REJECTIONS

The Examiner rejected claims 55, 57-61, and 63-72 under § 103 as unpatentable over the following references Spiegel et al. (U.S. Patent No. 5,649,108), **Koyanagi** et al. (U.S. Patent No. 7,187,658). Claims 56 and 62 were rejected under §103 over Spiegel, **Koyanagi**, and Kamm (U.S. Patent No. 5,457,680).

Applicant respectfully submits, however, that **Koyanagi** et al. (U.S. Patent No. 7,187,658), which the Examiner relies on for all rejections, is not prior art to this application. This application has a priority date of June 18, 1999. Koyanagi has a filing date of February, 2001, and a foreign priority date of February, 2000.

In re Patent Application No. 10/630,559

Confirmation No.: 8636

Inventor: Livio Ricciulli

In view of the above, withdrawal of these rejections under §103 is respectfully requested.

CONCLUSION

Applicant respectfully submits that this application is in condition for allowance and an early action to that effect is earnestly solicited. The Examiner is respectfully invited to telephone the undersigned to resolve any outstanding issues.

CHARGE STATEMENT: Deposit Account No. 501860, order no. **2711-0012**

The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficiencies only) now or hereafter relative to this application and the resulting Official Document under Rule 20, or credit any overpayment, to our Accounting/ Order Nos. shown above, for which purpose a duplicate copy of this sheet is attached.

This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal sheet is filed.

CUSTOMER NUMBER 75948	<p>Respectfully submitted, /Brian Siritzky/Reg. No. 37,497 By: _____ Brian Siritzky, Ph.D. Registration No.: 37,497</p>
<p>DAVIDSON BERQUIST JACKSON & GOWDEY LLP 4300 Wilson Blvd., 7th Floor, Arlington, Virginia 22203 Main: (703) 894-6400 • FAX: (703) 894-6430</p>	